

Attorney's Docket 008895-0316546
Client Reference: WIT/P61143US00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION of:
PETER BRIER ET AL.

Confirmation Number: 3557

Application No.: 10/540,489

Group Art Unit: 2879

Filed: December 8, 2005

Examiner: Perry, Anthony T

For: METHOD FOR MANUFACTURING AN ORGANIC ELECTROLUMINESCENT
DISPLAY DEVICE, SUBSTRATE TO BE USED WITH SUCH A METHOD AND AN
ORGANIC ELECTROLUMINESCENT DISPLAY DEVICE OBTAINED WITH THE
METHOD

RESPONSE TO RESTRICTION REQUIREMENT

**Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**

Sir:

In response to the Restriction Requirement mailed May 12, 2009, Applicant hereby provisionally elects Group I, corresponding to claims 1-30 and 46-54, drawn to a method for manufacturing an organic electroluminescent display device for prosecution in the application identified above. This election is made with traverse.

The Office states: "Group I recites coating processes for an encapsulating layer, a hole injecting layer, an organic electroluminescent compound, a second electrode layer, and an insulator, while Group II does not recite such special technical features. Group II recites a Fresnel lens structure, a structure having a converging effect on light, a structure having a diverging effect of light, and a structure that comprises capillary grooves, while Group I does not include these special technical features."

Applicant disagrees with these assertions because the Office has not shown that Group I and Group II lack unity.

For national stage applications, the unity of invention standard under PCT Rule 13 is to be applied. See 37 CFR § 1.475; MPEP § 1893.03(d). The correct inquiry under the unity of invention standard is whether all inventions are so linked as to form a single general inventive concept (PCT Rule 13.1). MPEP § 1850.

Applicant submits that Group I and Group II are so linked. For example, as the Restriction Requirement states: "Group I, claim(s) 1-30 and 46-54, drawn to a method of manufacturing an organic electroluminescent display device including a coating process. Group II, claim(s) 31-45, drawn to a substrate that can be used for an organic electroluminescent display device." (emphasis added). Indeed, an international or national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn to a product and a process specially adapted for the manufacture of said product. See 37 CFR § 1.475(b) (1).

Instead, the Office appears to have focused on features recited in one or more of the dependent claims, rather than the independent claims. This is improper. "Unity of invention has to be considered in the first place only in relation to the independent claims in an international application and not the dependent claims. By 'dependent' claim is meant a claim which contains all the features of one or more other claims and contains a reference, preferably at the beginning, to the other claim or claims and then states the additional features claimed (PCT Rule 6.4)." MPEP § 1850 (emphasis added).

Indeed, independent claim 1 of Group I does not recite: an encapsulating layer, a hole injecting layer, a second electrode layer, nor an insulator. Similarly, claim 31 of Group II does not recite: a Fresnel lens structure, a structure having a converging effect on light, a structure having a diverging effect of light, nor a structure that comprises capillary grooves.

For *at least* the foregoing reasons, Applicant submits that the Office has not demonstrated that Group I and Group II lack unity, and therefore has failed to establish a *prima facie* case for Restriction. In fact, Restriction in this case would be improper. Accordingly, Applicant submits that the Restriction Requirement should be withdrawn.

While Applicant does not believe that any fee is required with this response, Applicant authorizes the Commissioner to charge any fees (if necessary) associated with the submission of this paper to Deposit Account Number 033975 (Attorney Docket No. 008895-0316546). The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Date: June 3, 2009

Customer No.: 00909


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